

chlorofluorocarbon-containing cleaning fluid for electronic and photographic equipment or aerosol hydrochlorofluorocarbon-containing cleaning fluid for electronic and photographic equipment to anyone who is not a commercial user of this product. The penalty for violating this prohibition can be up to \$25,000 per unit sold. Individuals purchasing such products must present proof of their commercial status in accordance with 40 CFR 82.68(a) or 82.68(c)."

(f)-(g) [Reserved]

(h) Effective January 1, 1994, any person who sells or distributes any mold release agents containing a class II substance as a propellant must provide written notification to the purchaser prior to the sale that "It is a violation of federal law to sell mold release agents containing hydrochlorofluorocarbons as propellants to anyone, except for use in applications where no other alternative except a class I substance is available. The penalty for violating this prohibition can be up to \$25,000 per unit sold." Written notification may be placed on sales brochures, order forms, invoices and the like.

(i) Effective January 1, 1994, any person who sells or distributes any wasp and hornet spray containing a class II substance must provide written notification to the purchaser prior to the sale that "it is a violation of federal law to sell or distribute wasp and hornet sprays containing hydrochlorofluorocarbons as solvents to anyone, except for use near high-tension power lines where no other alternative except a class I substance is available. The penalty for violating this prohibition can be up to \$25,000 per unit sold." Written notification may be placed on sales brochures, order forms, invoices and the like.

[58 FR 69675, Dec. 30, 1993, as amended at 61 FR 64427, Dec. 4, 1996]

§ 82.70 Nonessential Class II products and exceptions.

The following products which release a class II substance (as designated as class II in 40 CFR part 82, appendix B to subpart A) are identified as being non-essential and the sale or distribution of

such products is prohibited under § 82.64 (d), (e), or (f)—

(a) Any aerosol product or other pressurized dispenser which contains a class II substance:

(1) Including but not limited to household, industrial, automotive and pesticide uses;

(2) Except—

(i) Medical devices listed in 21 CFR 2.125(e);

(ii) Lubricants, coatings or cleaning fluids for electrical or electronic equipment, which contain class II substances for solvent purposes, but which contain no other class II substances;

(iii) Lubricants, coatings or cleaning fluids used for aircraft maintenance, which contain class II substances for solvent purposes but which contain no other class II substances;

(iv) Mold release agents used in the production of plastic and elastomeric materials, which contain class II substances for solvent purposes but which contain no other class II substances, and/or mold release agents that contain HCFC-22 as a propellant where evidence of good faith efforts to secure alternatives indicates that, other than a class I substance, there are no suitable alternatives;

(v) Spinnerette lubricants/cleaning sprays used in the production of synthetic fibers, which contain class II substances for solvent purposes and/or contain class II substances for propellant purposes;

(vi) Document preservation sprays which contain HCFC-141b as a solvent, but which contain no other class II substance; and/or which contain HCFC-22 as a propellant, but which contain no other class II substance and which are used solely on thick books, books with coated, dense or paper and tightly bound documents;

(vii) Portable fire extinguishing equipment used for non-residential applications; and

(viii) Wasp and hornet sprays for use near high-tension power lines that contain a class II substance for solvent purposes only, but which contain no other class II substances.

(b) Any aerosol or pressurized dispenser cleaning fluid for electronic and photographic equipment which contains a class II substance, except for

those sold or distributed to a commercial purchaser.

(c) Any plastic foam product which contains, or is manufactured with, a class II substance,

(1) Including but not limited to household, industrial, automotive and pesticide uses,

(2) Except—

(i) Any foam insulation product, as defined in § 82.62(h); and

(ii) Integral skin foam utilized to provide for motor vehicle safety in accordance with Federal Motor Vehicle Safety Standards until January 1, 1996, after which date such products are identified as nonessential and may only be sold or distributed or offered for sale or distribution in interstate commerce in accordance with § 82.65(d).

[58 FR 69675, Dec. 30, 1993, as amended at 61 FR 64427, Dec. 4, 1996]

Subpart D—Federal Procurement

SOURCE: 58 FR 54898, Oct. 22, 1993, unless otherwise noted.

§ 82.80 Purpose and scope.

(a) The purpose of this subpart is to require Federal departments, agencies, and instrumentalities to adopt procurement regulations which conform to the policies and requirements of title VI of the Clean Air Act as amended, and which maximize the substitution in Federal procurement of safe alternatives, as identified under section 612 of the Clean Air Act, for class I and class II substances.

(b) The regulations in this subpart apply to each department, agency, and instrumentality of the United States.

§ 82.82 Definitions.

(a) *Class I substance* means any substance designated as class I by EPA pursuant to 42 U.S.C. 7671(a), including but not limited to chlorofluorocarbons, halons, carbon tetrachloride and methyl chloroform.

(b) *Class II substance* means any substance designated as class II by EPA pursuant to 42 U.S.C. 7671(a), including but not limited to hydrochlorofluorocarbons.

(c) *Controlled substance* means a class I or class II ozone-depleting substance.

(d) *Department, agency and instrumentality of the United States* refers to any executive department, military department, or independent establishment within the meaning of 5 U.S.C. 101, 102, and 104(1), respectively, any wholly owned Government corporation, the United States Postal Service and Postal Rate Commission, and all parts of and establishments within the legislative and judicial branches of the United States.

§ 82.84 Requirements.

(a) No later than October 24, 1994, each department, agency and instrumentality of the United States shall conform its procurement regulations to the requirements and policies of title VI of the Clean Air Act, 42 U.S.C. 7671–7671g. Each such regulation shall provide, at a minimum, the following:

(1) That in place of class I or class II substances, or of products made with or containing such substances, safe alternatives identified under 42 U.S.C. 7671k (or products made with or containing such alternatives) shall be substituted to the maximum extent practicable. Substitution is not required for class II substances identified as safe alternatives under 42 U.S.C. 7671k, or for products made with or containing such substances, and such substances may be used as substitutes for other class I or class II substances.

(2) That, consistent with the phase-out schedules for ozone-depleting substances, no purchases shall be made of class II substances, or products containing class II substances, for the purpose of any use prohibited under 42 U.S.C. 7671d(c);

(3) That all active or new contracts involving the performance of any service or activity subject to 42 U.S.C. 7671g or 7671h or regulations promulgated thereunder include, or be modified to include, a condition requiring the contractor to ensure compliance with all requirements of those sections and regulations;

(4) That no purchases shall be made of products whose sale is prohibited under 42 U.S.C. 7671h, except when they will be used by persons certified under section 609 to service vehicles, and no purchase shall be made of nonessential